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IMPLEMENTATION OF THE PROGRAMME OF ACTION FOR THE SECOND DECADE TO COMBAT RACISM AND RACIAL DISCRIMINATION

Report by Mr. Maurice Glélé-Ahanhanzo, Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, submitted pursuant to Commission on Human Rights resolutions 1993/20 and 1995/12

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Introduction

1. This report is submitted in compliance with resolution 1995/12 of 24 February 1995 in which the Commission on Human Rights requested the Special Rapporteur to continue to examine in accordance with his mandate incidents of contemporary forms of racism, racial discrimination, any form of discrimination against Blacks, Arabs and Muslims, xenophobia, negrophobia, anti-Semitism and related intolerance, as well as governmental measures to overcome them, and to report on those matters to the Commission at its fifty-second session.

2. The Commission also requested the Special Rapporteur to continue his exchange of views with the relevant mechanisms and treaty bodies within the United Nations system in order further to enhance their effectiveness and mutual cooperation. It also called on all Governments, intergovernmental organizations and other relevant organizations of the United Nations system, as well as non-governmental organizations, to supply information to the Special Rapporteur.

I. RECENT ACTIVITIES OF THE SPECIAL RAPPORTEUR

A. Participation in the work of the fiftieth session of the General Assembly

3. At the request of the Commission, the Special Rapporteur participated in the work of the fiftieth session of the General Assembly during which he submitted a substantial report (A/50/476). It will be sufficient to mention that, for the first time since the end of apartheid, following the statement by the Special Rapporteur on the situation of racism and racial discrimination, the General Assembly opened a substantive debate on those matters and numerous representatives of Member States of the United Nations voiced their concern over racism and racial discrimination and over the resurgence of xenophobia, under cover of law and legislation.

4. The General Assembly expressed its full support for the mandate of the Special Rapporteur in the resolution that it adopted at the close of the debate (resolution 50/135).

B. Meeting with the European Commission against Racism and Intolerance

5. One of the tasks of the Special Rapporteur is to consult with intergovernmental bodies to prevent actions giving rise to racism and racial discrimination, xenophobia and related intolerance (resolution 1995/12, para. 12). In that context the Special Rapporteur went to Strasbourg on 29 September 1995, to Human Rights House, where he had a working meeting with the Bureau of the European Commission against Racism and Intolerance.

6. The Commission explained to the Special Rapporteur the mission assigned to it by the Vienna Summit of Heads of State and Governments of Member States of the Council of Europe in October 1993. Its main thrust concerns the strengthening of safeguards against all forms of discrimination.

7. The Commission has already established a programme of activities comprising various fields of action, the first of which consists of the study of the situation of each member country of the Council of Europe, the second of work on international legal instruments and the third of the international dimension in the fight against racism and intolerance.

8. During 1995, following consideration of the situation country by country, the Commission began to formulate recommendations involving both legal and non-legal measures intended for the countries concerned on the subject of international legal instruments. It concentrated particularly on the European Convention on Human Rights by carrying out work focusing on the feasibility of strengthening the non-discrimination clause in that Convention.

9. The Special Rapporteur, for his part, outlined the mandate entrusted to him by the Commission and expressed his wish to work in close cooperation with the European Commission, in particular through the regular exchange of information. He briefly referred to the tour he was making in Europe at that time (to Germany and France) and requested some additional items of information on the situation of certain member countries of the Council of Europe.

10. The Special Rapporteur and the European Commission against Racism and Intolerance mutually agreed to keep each other informed of any developments in Europe and within the United Nations in connection with combating racism, racial discrimination, xenophobia and intolerance.

C. Consultations with the United Nations Educational, Scientific and Cultural Organization

11. The Special Rapporteur went to the headquarters of the United Nations Educational, Scientific and Cultural Organization (UNESCO) on 5 October 1995 in order to consider the scope for cooperation with the organization and to acquaint himself with its work to combat racism, racial discrimination, xenophobia and intolerance. This brought home to him that UNESCO was attentively following the implementation of the Third Decade to Combat Racism and Racial Discrimination and had, in that connection, organized several seminars and conferences that had given rise to publications. The following may be mentioned by way of example:

An international seminar of experts on the prevention of discrimination against migrants, refugees and minorities, held at Olympia, Greece, in May 1994;

The Conference on Democracy and Tolerance, held at Seoul in September 1994.

12. The Special Rapporteur said that such work would be very useful to him and invited UNESCO to refer also to the various reports he had submitted to the Commission on Human Rights and to the General Assembly, and to consider practical measures to introduce the teaching of human rights as a subject in the curricula of preschool, school, non-formal and university education, with a view to progressively putting an end to racism and xenophobia.

D. Missions of the Special Rapporteur

13. During 1995, the Special Rapporteur visited in turn Brazil, Germany, France and the United Kingdom of Great Britain and Northern Ireland. His report on his mission to Brazil is available as document E/CN.4/1996/72/Add.1. Those on the missions to Germany, France and the United Kingdom, will, because of lack of resources and time constraints, be submitted later. Germany, France and the United Kingdom respectively submitted periodic reports to the Committee on the Elimination of Racial Discrimination which will usefully supplement the information gathered during the missions, without duplicating it. That information can be summarized as follows.

1. Mission to Germany

14. The Special Rapporteur visited Germany from 18 to 27 September 1995. He wishes to convey his appreciation to the German Government for the thoroughness with which the visit was organized and for the outstanding hospitality with which he was received and which contributed greatly to the success of his mission. He was most gratified at the highly instructive and valuable exchanges of views he had with the people with whom he spoke and appreciated their responsiveness and availability, as well as their knowledge of the problems and their wish to arrive at satisfactory solutions which, in fact, were not always self-evident. However, it is to be regretted that a lawyer should have made a point of relating all issues - immigrants, right of asylum, holding centres, and so forth - to the Federal system and to the domestic law of Germany, as well as to the European Union, the prime objective of the German people, thus overlooking international law and the international conventions duly ratified by his country. The Special Rapporteur based his discussions on a principle and a virtue which he regards as essential: dialogue.

15. His German counterparts grasped the situation so well that they called him the "Ambassador for Human Rights" a title he welcomes and which he is keen to deserve fully since it is a noble calling. This attitude which was soon shared by both sides quickly dispelled the somewhat inquisitorial climate which characterized the start of his discussions, and greatly facilitated them.

16. Xenophobia exists in Germany. It is widely acknowledged that at the grass-roots level there is racism; hatred of foreigners is not directed against Europeans, Americans or Australians. Racism is based on skin colour and religion: people of Judaeo-Christian background and the rest. It is said that foreigners are tolerated, but not accepted.

17. It is appropriate to recall that German reunification was accompanied by a chorus of xenophobic sentiments encouraged by organizations of the far right and by neo-Nazi cells. Between 1991 and 1993 there was a plethora of incidents motivated by xenophobia or racism and targeting foreigners and asylum-seekers. While being mindful of the positive trend taken by events since 1994, the Special Rapporteur wished to look into the underlying causes of the phenomena observed and to acquaint himself with the measures taken by the Federal Government and by the authorities of the Länder and with what had been done by civil society.

18. Thanks to the firm and meticulous policy pursued by the Federal authorities and those of the Länder against political organizations of the far right and neo-Nazi cells and against the denial of the genocide of the Jews, Germany has been able to stem the tide of xenophobia and to curb the racially inspired violence which, following reunification, shook the country from 1991 to 1993.

19. According to information from the Ministry of the Interior and the Ministry of Justice, racial, anti-Semitic and xenophobic acts are on the decline; they fell by 60 per cent in 1994; in 1995, however, they remained a major factor: fires of criminal origin occurred in April, May and June 1995. Direct confrontation between the protagonists no longer takes place but racist, anti-Semitic and xenophobic statements are made, and written material is sent, comprising insults or racist propaganda or incitements to hatred of foreigners coming from "anti-constitutional movements"; similarly, there are instances of damage to property. There is a great risk of becoming inured to these manifestations which are frequent and unspectacular. This is particularly the case, so it is said, since the perpetrators are not all identifiable and that it proves difficult to characterize such actions in legal terms: "It is not always clear what is racist, anti-Semitic or xenophobic".

20. There is a clear awareness of the danger for Germany of the development of xenophobia and racism which is likely to tarnish its image as a major Power in the world. Thus, the Special Rapporteur was often told: "We have not forgotten anything and we know we must behave in an exemplary fashion". As a result, great vigilance is shown towards the far right and neo-Nazism and there is a sustained offensive against anti-Semitism and xenophobia.

21. The Special Rapporteur was able to ascertain the progress achieved: legislation has been strengthened, the Federal Office for the Protection of the Constitution monitors respect for rights and fundamental freedoms. Several organizations of the far right have been dissolved and the activities of neo-Nazi movements, in particular their racist and anti-Semitic propaganda, have been prohibited. Anti-Semitism is a taboo subject. Since it persists, the Government has spent about 10 million deutsche marks over two years in order to combat anti-Semitism in schools and other places of assembly (through advertising posters, computer games, and so forth). As a result of severe penalties and of improvements made to police training through the teaching of the principles of non-discrimination and inculcating awareness of non-racist attitudes, police violence is on the decrease. Moreover, the judgement in the Solingen case 1/ sends an exemplary message and appears to act as a deterrent. Furthermore, Germany civil society, under the leadership of the Commissioners for Aliens, the churches, various associations and private firms, has conducted and continues to conduct intensive campaigns calling for respect for foreigners and coexistence with foreign populations and communities resident in Germany.

22. It remains for Germany to adopt a more coherent immigration and integration policy which takes account of the presence of long-established immigrants not as a transitory phenomenon but as a long-term and even

permanent feature. In the main, this is a matter of the Turkish issue which is a difficult one which is complicated by intra-Turkish disputes connected with the question of the Kurds.

23. The Turks resident in Germany are the largest alien colony, numbering over 2 million out of 7 million foreigners in the country. This population is in its third generation: born, educated and trained in Germany, following the same school, university and vocational studies as people of German stock, the second and particularly the third generation of immigrants have in general no more than emotional ties with Turkey. On reaching their majority they discover that they are not German; they do not have German nationality. They are conscious of this, for example, on getting married and when submitting official documents. Few of them are integrated and have acquired German nationality; unlike foreigners from the European Union, they cannot take part in municipal elections. Up to the time of the Special Rapporteur's mission the question of dual nationality was not resolved. The German law, which is 82 years old, and the Turkish law, do not allow dual nationality. Agreements are currently being negotiated between the two States to determine a policy on dual nationality, which is something that would facilitate the "integration" of the Turks. But the difficulty remains that the latter, in general, want to have the status of "national minority" like the two other national minorities, the Danes and the Swabians.

24. Efforts still need to be made to change mental attitudes in favour of the acceptance of a multicultural German society, a matter that is being actively addressed by the Commissioners for Aliens. Efforts should also be made to improve the reception of asylum-seekers. The question is complicated by the European third State clause - and the flood of asylum-seekers from the former Yugoslavia and from the countries of Eastern Europe gives Germany the feeling that, more than any other European State, it is bearing the brunt of the burden of immigration.

25. The Special Rapporteur makes the following recommendations:

(a) Living conditions in the holding centres should be improved and the humanitarian aspect should be taken into account in the refoulement of irregular immigrants.

(b) A more humane solution than refoulement should be found, in particular, for Vietnamese and Mozambicans who were working under contract in the former German Democratic Republic and whom reunification did not take into account.

(c) Lastly, an anti-racist law against anti-Semitism and against xenophobia should be adopted.

26. In addition to his findings, the Special Rapporteur transmitted to the German Government allegations of incidents that may have been racially motivated. The observations of the German Government on this matter are annexed to this report (annex I).

27. The German Government also made observation on certain passages (paras. 144-148 and 150) of the Special Rapporteur's report to the General Assembly at its fiftieth session (A/50/476); those observations are reproduced below:

> "The accounts of criminal acts in Germany in the Special Rapporteur's report are partly incorrect, incomplete or misleading. For example, the description of the case of arson in Mellendorf on 8 January 1995 is not consistent with the facts. The fire was actually caused by a technical defect. A politically motivated criminal act or terrorist attack can definitely be ruled out. The fire in mobile homes in Arsberg on 2 February 1995 was started by the occupants themselves to show their dissatisfaction with their living conditions.
>
> "Some of the report's statistics require correction. The percentage of cases solved in Germany is higher than as stated in the report. It increased from 23.8 per cent in 1993 to 33.5 per cent in 1994. The Rapporteur's list of banned extreme right-wing organizations is incomplete. Since 1992, five have been banned by the Federal Ministry of the Interior and six by the interior ministries of the Länder.
>
> "The information on German criminal procedure and especially on the Priem case is inaccurate. Arnulf Priem was convicted by the Berlin regional court on 23 May 1995 not merely for illegally possessing weapons and racist propaganda material but for disparaging the State and constitutional institutions, using symbols of former Nazi organizations and keeping objects which contain such symbols, and for forming an armed gang and violating the Weapons Act. He was given a prison term of three years and six months and the judgement is final." 2/

28. The Special Rapporteur would nevertheless like to make some remarks on the handling of the information he receives or seeks, in particular the allegations of racist incidents.

29. The German Government has made observations which, at its request, have been brought to the attention of the General Assembly (A/50/476, para. 16). The German authorities expressed regret that no adversary procedure had been instituted making it possible to obtain the views of Governments on the racist or xenophobic incidents reported by non-governmental organizations or by certain Governments.

30. The Special Rapporteur would like to reiterate the observations he made in paragraph 17 of his report in document A/50/476 of 25 September 1995: "The Special Rapporteur wishes to draw attention to the administrative and financial constraints (relatively short deadlines for the preparation and submission of reports to the Commission and to the General Assembly, consultations with Governments, administrative secretariat and translation of documents ...) which make such a procedure impracticable in the immediate future. None of the recommendations about the means required for the proper execution of the mandate have been followed up. For the time being, the Special Rapporteur is trying to the best of his ability to inform Governments

of the cases submitted to him". That is how he is proceeding. The responses of Governments are transmitted to the political authorities (see the case of the fire attack without warning on a woman of Turkish origin in the Land of Bade-Wurtemberg, a case which the Special Rapporteur submitted to the German authorities during his visit to Germany) and to relevant non-governmental organizations.

31. Rather than relying on political and administrative explanations - inquiries into racist or xenophobic incidents often run into the sand (those guilty are not found, there is no evidence) - the Special Rapporteur prefers to rely on judicial rulings, for which he has respect. The case of the seven Sudanese "asylum-seekers" which caused a stir in the Bundestag in Germany at the time of the Special Rapporteur's visit and which was referred to in his discussion with Members of Parliament during the working session that was arranged on 19 September 1995, is a revealing example of this. The great debate which should have been held in the Bundestag on 20 September 1995 did not take place as the case had been "deflated" by the press, which had established that they were "bogus asylum-seekers" who had been "rightly" refused entry.

32. As the Special Rapporteur pointed out at the recapitulatory meeting held at the Federal Ministry of Foreign Affairs in Bonn on 27 September, the replies provided give the impression that the only racist or xenophobic incidents or manifestations that are culpable are those that are spectacular and covered prominently by the media, whereas other incidents which occur on a daily basis are treated as inconsequential. Substantial efforts, however, are being made by the Government and by civil society progressively to reduce and even eliminate racism and racial discrimination.

2. Mission to France

33. The Special Rapporteur visited France from 29 September to 9 October 1995 after receiving information on the development of racism and xenophobia. He wishes to convey his deep appreciation to the French Government for having arranged this visit, for the quality of the hospitality received and for the spirit of cooperation displayed by its representatives.

34. In its reports for 1991, 1992, 1993 and 1994, the French National Consultative Commission on Human Rights noted the multiplication of racist and xenophobic incidents targeting immigrants and French people of foreign origin, particularly Arabs, and of anti-Semitic acts (desecration of cemeteries, graffiti, dissemination of publications). The Special Rapporteur received information on the measures taken by the French Government and on the development of the situation and makes the following observations.

35. France is experiencing problems with the integration of foreign populations or of French citizens of foreign origin (in particular from the Maghreb and from black Africa) and these are typified by the "difficult suburbs" on the periphery of several large cities. These suburbs, where there are concentrations of immigrant populations which seem to have been left behind by the process of development of French society, today exemplify tensions originating in the economic crisis and its corollary, social

exclusion, a national identity crisis, ethno-cultural problems, discriminatory practices, particularly in the fields of employment and housing, and a degree of xenophobia in people's way of thinking.

36. The economic crisis on the one hand, and the identity crisis on the other, are aggravated by the claims of people of French stock to ascendency over naturalized French citizens and immigrants; hence the reference to the theme of national preference, with its xenophobic and even racist content, in political speeches.

37. The wave of xenophobia currently sweeping over France feeds on the attitudes adopted and declarations made for electioneering purposes by politicians, both on the right and on the left. It is not due solely to the far right which makes foreigners the scapegoats, particularly if they are Black, Arab or Muslim. Xenophobia in France is today sustained by the Pasqua Acts, which, it must not be forgotten, are laws of the French Republic. For France's image, and its moral responsibility, at the global level, in the history of the promotion and defence of human rights, the peremptorily enacted laws on immigration, the right of asylum and the forced repatriation of "illegal" entrants, constitute nothing less than an act of self-repudiation which calls to mind the words of Suetonius: "et propter vitam vivendi perdere causas" ["and in order to live their own life they lose their true reason for existence"]. The Special Rapporteur's interlocutors acknowledge moreover that the Pasqua Acts are difficult to apply and raise delicate problems of interpretation. Confirmation of this is provided by the paradoxical situation of French children one of whose parents is not of French nationality. The father may be expelled from France if he is deemed to be an illegal alien: families are separated. The procedure for obtaining French nationality now involves a veritable assault course. French nationality may be refused on such surprising grounds as that the applicant is "plump and ugly". There are increasingly frequent cases of this great country, which excels in much publicized humanitarian actions, making it increasingly difficult to obtain an entry visa into France for seriously ill people who demonstrably have the means to pay their hospital bills, meet the cost of their stay and return to their country of origin. Is humanitarian action selective, or is it worth being humane only in the glare of publicity? What has become of human dignity? One is tempted to ask.

38. It would be very helpful if the recommendations of the National Consultative Commission on Human Rights on the review of the Pasqua Acts were to be taken into account by the competent legislative and executive authorities. Some people consider that the National Consultative Commission should build on the celebrity it has acquired and go further, in the faithful discharge of its mission, by prevailing on those in power to take urgent measures to rectify and improve the battery of laws on immigration.

39. One of the principal problems to which a solution should be found that is more humane and more in keeping with the humanist ideal that France has taught and disseminated throughout the world and which has been one of the justifications of colonization which has called the people of other continents to "civilization", is the problem of the right of asylum, a right that is linked to the right of immigration which is all too easily characterized as clandestine. It raises the distressing and worrying issue of the holding

centres at airports and seaports, and even in major cities such as Paris with the Centres of Vincennes and Nanterre, and the former Centre at the Palais de Justice in Paris, of sinister memory.

40. The Special Rapporteur also considers that xenophobia and the anti-Arab and anti-Muslim movements should be perceived in the light of the fundamental question of the place that Islam has acquired in French society. Islam is the second religion in France. How is that religion to thrive in all its dimensions in a society that belongs basically to a Judaeo-Christian culture, and in a secular State, in a "citizen's" republic as many people like to say, rather than a culturally pluralistic society of communities: cultural identity, cultural diversity, cultural complementarity, mutual cultural enrichment?

41. Will France accept, in the name of State secularism, Islamic schools in the same way as it accepts private Christian schools, subject to the same legislation and the same rules? These are all questions to which it was difficult to provide the Special Rapporteur with answers. The serious terrorist attacks of fundamentalist or integrist inspiration considerably complicated the situation. From this point of view it seems that France is facing not so much problems of economic and social development as a veritable crisis of society and civilization. It is this set of problems that prompts and feeds the wave of xenophobia that is sweeping across France and is directed in the main against people from the South while the construction of a greater Europe, which some people already regard as a fortress, continues.

42. The French authorities, and many individual voices, speak out to denounce and combat racism, the flood of aggressive xenophobia, and anti-Arab and anti-Muslim movements which are not due exclusively to the French far right. The public authorities and civil society have become aware of the danger of xenophobia and racism and of the sporadic manifestations of anti-Semitism.

43. Having taken the measure of these phenomena, the French authorities are endeavouring by strengthening anti-racist legislation, to reverse the trend. Justice is at work; in spite of its delays (cf. the Carpentras case: the desecration of a Jewish cemetery). 3/ Justice is endeavouring, not without difficulty, to ensure respect for the rule of law and for the international conventions to which France is a party. In addition, economic and social measures are being taken (municipal policy as the Special Rapporteur was able to see it in Lyons and Marseilles) to facilitate the progressive integration of immigrant populations resident in France. Lastly, the call for tolerance and for respect for the dignity of one's fellow human beings, made by the religious communities and by various associations involved in the struggle for the rights and dignity of the individual, is steadily although slowly helping to bring about a change in attitudes.

44. A great deal remains to be done through systematic education in the rights of the individual, not through traditional civic education which the crisis of ideologies has emptied all content, but through an upsurge of French humanism to halt the deterioration in the image of the original homeland of human rights and the rights of the citizen.

45. By way of conclusion, the Special Rapporteur has recommended the French authorities:

(i) to revise the Pasqua Acts to make them more humane and more in keeping with the French ideal of human rights and with international conventions on the rights of the individual;

(ii) to be more generous in granting entry visas for people from the South, in particular for asylum-seekers and for people wishing to have medical treatment in France and who are able to afford it;

(iii) to expedite the procedure for examining the files of persons detained in holding centres and to bring about an improvement in living conditions there since even an ordinary prisoner has a right to human dignity; to make the conditions of expulsion less degrading for "illegal" entrants;

(iv) to study the feasibility of devising and disseminating a syllabus for the teaching of human rights on the basis of the agreed common ground of international declarations and conventions on the rights of the individual;

(v) lastly, to provide technical assistance and financial support for the holding of an international seminar on racism and xenophobia through partnership between the National Consultative Commission on Human Rights and the United Nations Centre for Human Rights. The Special Rapporteur welcomes the fact that his recommendations have been heeded and that the idea of the seminar was relaunched at the start of 1996 by Mr. P. Bouchet, President of the French National Consultative Commission on Human Rights.

3. Mission to the United Kingdom of Great Britain and Northern Ireland

46. The mission to the United Kingdom of Great Britain and Northern Ireland took place from 13 to 24 November 1995, as agreed with the Government of that country.

47. The prevailing atmosphere was one of frank and open discussion which quickly dispelled memories of the opposition of a sector of the press which had wondered in 1994 what business the United Nations had getting involved. 4/ The prevailing tone of the discussion prompted the British authorities at the conclusion of the mission to say that it had been useful.

48. The Special Rapporteur would like to convey his deep gratitude to the Government of the United Kingdom for arranging his visit, for the quality of the hospitality he received, and for the spirit of cooperation displayed by its representatives. He would like to say how much he appreciated the "British sportsmanship" which enabled him to visit the holding centre at Campsfield, to the north of London, and at Kidlington near Oxford, where immigrants suspected of being illegal entrants and asylum-seekers, who are increasingly regarded as "bogus", are held. He was able to form his own opinion on these holding centres which are tending to increase in number and which raise problems with respect to the rights and dignity of the individual,

for a person, even when seeking work and/or seeking asylum, keeps his or her human dignity. He was pleased to have had useful meetings with municipal officials in London and in Birmingham, Manchester and Liverpool who are endeavouring to improve race relations in their cities, and with officials of the national and regional offices of the Commission for Racial Equality. He also thanks the officials and representatives of the non-governmental organizations and of various ethnic minorities who agreed to see him and provided him with information.

49. Allegations received at the Centre for Human Rights referred to a multiplication of racist incidents in the United Kingdom due, in particular, to the activities of movements of the far right and to the behaviour of the police towards certain ethnic minorities. Jewish organizations had also informed the Special Rapporteur of the resurgence of anti-Semitic acts prompted by the propaganda of fundamentalist Islamic organizations and organizations of the far right.

50. The mission also took place after the consideration, in July 1995, by the Human Rights Committee of the fourth periodic report of the United Kingdom submitted in accordance with article 40 of the International Covenant on Civil and Political Rights. 5/ The Committee expressed regret "concerning the failure to address adequately issues properly arising under article 26 of the Covenant". 6/

51. The Committee also expressed concern on a number of matters directly or indirectly related to the question of racism and racial discrimination. 7/

52. The Government of the United Kingdom acknowledges the existence of problems of racism and xenophobia and is trying to overcome them through legislative and administrative measures designed to eliminate economic and social disparities between the indigenous majority and the ethnic minorities. Government action is supplemented by that of local communities, churches, trade unions and numerous non-governmental associations and organizations.

53. The United Kingdom was in fact one of the first Member States of the United Nations to make a frontal attack on the problems that may arise from race relations. That country very early on adopted laws on the subject and created a Commission for Racial Equality responsible for supervising their implementation. The United Kingdom is seen as a multicultural society the epicentre of which remains the British nation which is not encroached on by the various ethnic and black minorities which have their own cultures but live under the laws of Britain.

54. Remarkable progress has been achieved during the 30 years of the policy of racial equality, but increasingly subtle forms of discrimination have emerged. Moreover, in recent years, the economic crisis and competition for increasingly scarce resources and jobs, as well as political activity by far right and neo-Nazi movements and parties, and violent action by the police against certain communities, have polarized social relations between rich and poor on the one hand, and between whites and blacks on the other. The term "blacks" is used in a political sense; it denotes the blacks and ethnic minorities of the United Kingdom; in ordinary speech the terms used are either

"blacks" or "blacks and ethnic minorities". In these black communities racial riots, murders of racist origin and various more or less serious incidents have occurred.

55. The arrival of immigrants and asylum-seekers, in particular from the southern hemisphere, has accentuated the ambient xenophobia. The recent measures envisaged by the Government to check immigration and requests for asylum (severe restriction of entry visas, construction of new holding centres, establishment of a list of safe countries for the grant of the right of asylum, greater restrictions on the reunification of families) do not seem likely to relieve tensions. British universalism is increasingly tending to be reduced to the European Union and the original civilizing and humanist mission of the United Kingdom is being eroded. In order to provide for a fresh look at that mission, the Special Rapporteur has made the following recommendations to which the British authorities showed themselves to be responsive at the recapitulatory meeting on 24 November:

(i) Education for the acceptance of people different from oneself;

(ii) The training of members of the police force and the incorporation in the police of citizens from different ethnic communities;

(iii) The severe condemnation of police violence;

(iv) Conditions that are more respectful of human dignity in the holding centres and in cases of the refoulement or expulsion of "illegal entrants" and asylum-seekers;

(v) To review the law on incitement to racial hatred which is difficult to apply and seems to serve little purpose. To create a specific offence of racist harassment and violence and an offence of defamation with respect to an ethnic group or minority;

(vi) To take action to ensure that the United Kingdom is not seen as a country that rejects people from the south, particularly black minorities, in favour of nationals of countries of the north.

II. ANTI-SEMITISM THROUGHOUT THE WORLD

56. The Special Rapporteur gives below an extract from the communication from the Israeli Government dated 13 October 1995 concerning anti-Semitism worldwide. The full text of this communication is available for consultation in the Secretariat.

> "1994 witnessed a worrisome worldwide escalation of violent anti-Semitic activities. Seventy-two cases of violent attacks perpetrated with the intention of killing, using firearms, personal weapons, and booby-trapped cars, were registered during 1994 as compared to 42 such incidents in 1993. Damage to cemeteries, Jewish institutions and property remained on a high level, similar to the previous year, totalling no less than 232 incidents. Violent attacks doubled in Western Europe, while in the United States there was an overall increase

of 10 per cent. A similar trend can be discerned also in Russia. Great Britain remained the most violent country with respect to racist and anti-Semitic activities for the third consecutive year.

These are a few of the conclusions introduced in the annual survey, Anti-Semitism Worldwide - 1994, prepared by the Project for the Study of Anti-Semitism at Tel Aviv University. The following report is a brief summary based on that survey.

Some of the trends noted in 1993 continued and seem to have become an acceptable part of reality: techniques for disseminating anti-Semitic propaganda are improving in sophistication in reaction to Government policies of imposing bans and legal constraints; bonds and coordination among extremist groups are being strengthened; a distinction is still made between moderate messages aimed at the larger voting public and cruder messages designed for internal consumption in radical circles. The moderate messages touched on sensitive points, such as foreign workers and the danger they allegedly pose to a country's society and culture, or the bearing they have on civil rights in that country. Worst of all is the gradual breaking of taboos, which has resulted not only in greater violence but also in vicious and crude instigation, mostly on the part of small but increasing numbers of hard-core extremists. This incitement has been filtering down to the general public discourse, reinforcing the image of the negative and dangerous Jew.

The image of the Jew as a subversive element aiming at 'Jewish world domination' is at the core of various extremist ideas. In Japan popular books warn against Jewish and Zionist plots to use their world economic power to destroy Japan in a matter of years. In the United States, Black Muslims accuse Jews of having been slave traders, and of deflecting attention from their crime by bringing to centre stage their fabrications about the Holocaust, thus overshadowing the suffering of the Blacks.

In a world which is more oriented towards nationalism and group affiliation, racist ideas are loudly aired. The alleged Jewish domination of the world, first embodied in The Protocols of The Elders of Zion, recently has been reborn in many new forms, especially that of Holocaust denial: the Jews' grip is so strong that they can sell the world any horror story, and the world will buy the story and pay up.

Throughout the Western world a considerable increase was noted in the role of extremist Muslim groups and movements affiliated to fundamentalist organizations in North Africa and the Middle East, and in the percentage of violent assaults which turned out to be part of extremist Muslim activity. This increase is in part related to developments in the Middle East, and in part independent of events there.

Ceremonies which took place in 1994 all over the world commemorating the 50th anniversary of the end of the Second World War and the liberation of Auschwitz, brought relations with the Jewish people to the fore. The impact of these ceremonies on public debate and extremist activity was especially marked in Eastern Europe and the former

Soviet Union, where most of the Holocaust victims were killed. Issues such as compensation for Jewish property, rehabilitation of war criminals who today are presented as national anti-Communist heroes, cooperation of the local population with the Nazis are all still sensitive subjects. Every commemoration and new monument take their toll in anti-Jewish terms."

57. In addition to the communication from the Israeli Government, the Special Rapporteur received a document from the Coordinating Board of Jewish Organizations concerning anti-semitism 8/ which is annexed to this report (annex II).

III. PROVISIONAL EVALUATION

58. As the reports he has submitted both to the Commission and to the General Assembly show, the end of apartheid does not mean the end of racism and racial discrimination. The manifestations of contemporary forms of racism, racial discrimination, xenophobia and related intolerance, together with anti-Semitism, bode ill for the international community.

59. Racist propaganda and incitement to ethnic and racial hatred are spreading; racism is taking increasingly violent forms including physical aggression, murder, attacks on the property of immigrants or people belonging to ethnic, racial or religious minorities, the desecration of cemeteries and the destruction of places of worship. The resurgence of the absolute sovereignty of States takes the form of the use of the law, and therefore of legislation to curb and significantly reduce immigration, the right of asylum and the free movement of persons, a subtle reflection of the xenophobia which rages in many regions, both in the north and in the South.

60. Certain attitudes that have been adopted might be seen as implying that such phenomena are not of great importance. For his part, the Special Rapporteur has tried to place his own efforts in the context of the international disapproval reflected by the World Conference on Human Rights (Vienna, June 1993) and which led to the proclamation of the Third Decade to Combat Racism and Racial Discrimination.

61. In spite of the limited material and human resources at his disposal, he has endeavoured to identify the various aspects of the problem with the assistance of Governments, the specialized agencies, in particular ILO and UNESCO, regional organizations including the Council of Europe, national institutions and non-governmental organizations, which all kindly transmitted information to him.

62. The missions of the Special Rapporteur have enabled him to begin a dialogue with the Governments of the countries he visited. He has had the opportunity to appreciate the usefulness of such missions to the places concerned in that they may make it possible, within a short space of time, to get a sense of the actual situation in the country. Through dialogue with those involved on a daily basis, such missions provide a means of going beyond the impersonality of written texts and statistics in order to come to grips with living reality and its contradictions.

63. Whether in the United States of America or in Brazil, in Germany or in France and the United Kingdom, the Special Rapporteur was able to make his own observations in the street; he watched television, read the local press and had conversations with ordinary citizens in order to gather impressions and form opinions on possible problems. The information obtained, far from leading to purely subjective conclusions based on personal impressions, has been a source of the greatest importance for the studies made by the Special Rapporteur.

64. On two occasions, moreover, he was fortunate to arrive at a time when urgent topical issues were the subject of intense discussion. One example was during his mission to the United States when the publication of the book by Charles Murray, The Bell Curve, was causing a stir throughout the country because of the racist conclusions contained in the book. Similarly, during his visit to the United Kingdom, the Government and the Labour opposition were engaged in a confrontation over the immigration rules and the right of asylum, each accusing the other of "playing the racist card".

65. Furthermore, the missions have helped to provide information on the work of the United Nations in combating racism and racial discrimination. Indeed, most of those whom the Special Rapporteur met, in particular the representatives of non-governmental organizations and community associations, had a vague idea that there was some arrangement for promoting and protecting human rights. But to see an actual representative of a United Nations body coming to see them and taking an interest in their fate gave them encouragement and fresh hope. That was, for example, the impression which the Special Rapporteur gained on his brief visit to Belem in the north of Brazil to meet representatives of a non-governmental organization, left to its own devices and without resources, but working determinedly on behalf of the Blacks of the State of Pará, and in particular the Quilombos communities on the borders of Amazonia.

66. As he was putting the final touches to his report on Sunday, 28 January 1996, the Special Rapporteur saw on television scenes of rioting among Jews in Jerusalem as the Falashas (Jews of Ethiopian origin) denounced the racism and racial discrimination from which they claimed to suffer in Israel. The Special Rapporteur approached the Israeli authorities in order to have more comprehensive information on the nature of those demonstrations and on the measures which had been taken by the public authorities and on the initiatives of civil society.

67. An enormous task still remains to be completed in view of the complexity of the issues, in all five continents, covered by the mandate. Field missions should be continued in Africa, in Latin America and in the Caribbean and in Asia, in Oceania and in the Middle East in order to provide a panoramic view of the contemporary forms and manifestations of racism, racial discrimination and xenophobia, which are terrible phenomena from which no region is exempt and which affect the countries of the North as well as those of the South. The Special Rapporteur earnestly hopes that the countries in those continents will receive him and will provide him with all necessary assistance for the discharge of his mission.

68. The Special Rapporteur hopes he has fulfilled a useful role in contributing to the understanding of part of the problems and to the quest for appropriate solutions.

Notes

1/ A criminal fire at the home of a Turkish family which left five dead and three injured in May 1993. The four people responsible for this act were sentenced on 13 October 1995 by a court in Düsseldorf to prison terms of between 10 and 15 years.

2/ Extracts from the observations of the German Government communicated by a note verbale, dated 8 January 1996, from the Permanent Mission of Germany to the United Nations Office at Geneva addressed to the Centre for Human Rights.

3/ Le Monde, Saturday, 11 November 1995 "Carpentras, a poisoned town ... more than five years after the desecration of the Jewish cemetery of the town ...".

4/ Cf. "Anger over UN investigation into racism in Britain" and "A foolish intervention. The UN has no role in British race relations", The Times, 12 December 1994, pp. 1 and 19.

5/ CCPR/C/95/Add.3.

6/ CCPR/C/79/Add.55, para. 2. Article 26 of the International Covenant on Civil and Political Rights relates to the prohibition of discrimination in all its forms.

7/ In particular, the Committee was concerned:

> "That, notwithstanding [the] establishment ... of mechanisms for external supervision of investigations of incidents in which the police or military are allegedly involved, especially incidents that result in death or wounding of persons, as the investigations are still carried out by the police, they lack sufficient credibility;"
>
> "That members of some ethnic minorities including Africans and Afro-Caribbeans are often disproportionately subjected to stop-and-search practices that may raise doubts under the non-discriminatory provisions of the Covenant ...".

The Committee also emphasized that "the treatment of illegal immigrants, asylum-seekers and those ordered to be deported gives cause for concern", and observed "that the incarceration of persons ordered to be deported and particularly the length of their detention may not be necessary in every case and it is gravely concerned at instances of the use of excessive force in the execution of deportation orders".

Lastly, the Committee was concerned "at the levels of support offered for the protection of cultural and ethnic diversity within the United Kingdom". It noted further "with concern that many persons belonging to minorities frequently feel that acts of racial harassment are not pursued by the competent authorities with sufficient rigour and efficiency". It also believed "that much remains to be done to effect changes in public attitudes and to combat and overcome racism". (CCPR/C/79/Add.55, paras. 13-15 and 18.)

8/ Letter dated 28 September 1995 from Dr. Harris Schoenberg, Director of the Bureau of the Coordinating Board of Jewish Organizations to the United Nations.

Annex I

ALLEGATIONS RELATING TO RACIST INCIDENTS IN GERMANY AND OBSERVATIONS BY THE GOVERNMENT OF GERMANY

1. In 1995 the Special Rapporteur received allegations from a number of sources concerning incidents which took place in Germany and which might have been racially motivated. Fifteen cases were transmitted to the Government of Germany for its observations. a/

2. The summaries of the allegations and the observations of the Government of Germany are set out below.

Case No. 1995/1

Allegations

Place: Verl

Date: 24 November 1994

3. It has been reported that an arson attack was made on a Turkish-owned guesthouse near Guetersloh on 24 November 1994. Three people were killed and six others were injured. Three of the injured suffered very serious burns.

4. It is alleged that this incident had racist motivations.

Observations

5. The facts of the case are confirmed. The investigations have however not revealed any indications of a xenophobic offence. The fact that the fire broke out inside the house, on the second floor, and that the guest rooms are used by individuals of different nationality, particularly from Northern Europe, counters the argument of racially motivated arson. Those who died were one Polish woman, one Bulgarian man and one German man.

6. The investigations of the competent public prosecution office are being pursued on the basis of negligent homicide and concern the owners and operators of the hotel/restaurant.

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a/ Letters from the Special Rapporteur to the Permanent Mission of Germany to the United Nations Office at Geneva, dated 24 May and 15 September 1995.

Case No. 1995/2

Allegations

Place: Oberderdingen

Date: 4 December 1994

7. It has been reported that there was an arson attack on a timber depot next to a house owned by a Turkish family on 4 December 1994. The residents evacuated the house immediately and no one was injured in the incident.

8. The police suspect the incident was an arson attack and that it had racist motivations since swastikas and the slogan "Ausländer raus" (foreigners out) were painted on the outer walls of the house before this incident.

Observations

9. On 4 December 1994 at about 4.20 a.m., unknown offenders used a Molotov cocktail to set fire to a timber depot adjoining the house at 27 Sternenfelser Strasse in Oberderdingen, as a result of which the depot burned to the ground and the fire spread to the dividing wall between it and the house. Four members of the Turkish family living there were injured when they fled from the house.

10. Because a sheet of paper had been found on 30 November 1994 in front of the property, with the words "Türken raus" (Turks out), and, according to the family concerned, several swastikas had already been chalked onto the wall of the house, the investigations carried out by Karlsruhe public prosecution office in respect of attempted serious arson initially presumed that there was a xenophobic background. However, the result of the investigations carried out by the criminal police do not make it possible to exclude the possibility that the arson attack was not xenophobically motivated.

11. In spite of the fact that the public prosecution office offered a reward of 2,000 deutsche marks for clues leading to identification or apprehension of the offender or offenders, no concrete clues emerged. For this reason, the investigation proceedings had to be discontinued on 30 March 1995 because no offender could be identified.

Case No. 1995/3

Allegations

Place: Reichelsheim

Date: 12 December 1994

12. It has been reported that there was an arson attack on the house of the Cakmak family (of Turkish origin) in the village of Reichelsheim near Friedberg, Frankfurt, on 12 December 1994. The fire was started by an explosion in the entrance hall. A plastic gasoline container was found on the stairs after the fire was extinguished.

13. There was damage of 50,000 deutsche marks. No one was injured in the incident. It is alleged that this arson attack had racist motivations.

Observations

14. The facts of the case are confirmed. According to the police investigations, one must assume arson. To date the investigations concerning the offender or offenders have been without success.

15. As yet, there have been no indications that the offence was xenophobically motivated. The Cakmak family also state that they have not been bothered in this sense before.

16. On 29 April 1995 there was another case of arson concerning relatives of the Cakmaks, also in Reichelsheim. The police investigations revealed strong suspicion against the son of the owner of the apartment, who is also the owner of the house affected by the arson attack of 12 December 1994. The latter is presently serving a prison sentence on work release from Frankfurt IV Prison. He is also accused of inciting a co-inmate to commit the offence. The police investigations into this matter have not yet been concluded.

Case No. 1995/4

Persons concerned

Sinan Kadioglu
Gulsum Kadioglu
Muhammed Kadioglu
Sultan Kadioglu
Sedva Kadioglu
Mustafa Kadioglu

Allegations

Place: Reichertshofen

Date: 24 December 1994

17. It has been reported that Sinan Kadioglu and his five-year-old son Muhammed Kadioglu (of Turkish origin) died in an arson attack in the village of Reichertshofen near Ingolstadt. The fire started around 7 a.m. in a workshop attached to a house on Margarethen Street and spread to the kitchen. The mother Gulsum Kadioglu, and three other children (Sultan, Sevda and Mustafa Kadioglu) escaped by jumping out of the window in the second floor. The 38-year-old father returned to the smoke-filled house to search for his son. There was an explosion in the second floor while he was inside and the father and son were both killed. The Kadioglu family had been living in Ingolstadt since 1978.

18. Sources claim that quite a number of neo-Nazis in the neighbouring towns of Faubourg and Rockfolding frequently come to Reichertshofen. Nine-year-old Mustafa Kadioglu said that a group of neo-Nazis had recently come to his school.

19. It is alleged that this arson attack had racist motivations and was perpetrated by neo-Nazis.

Observations

20. The facts of the case are confirmed.

21. On the basis of the investigations carried out by the technical expert witness, as well as of the observations of the witnesses, it has been established that the fire broke out in the extension, between a grease pit and the house. The extension is a shed subsequently built onto the house and used by Sinan Kadioglu as a garage and car repair shop.

22. The report of the Bavarian Regional Criminal Office reached the conclusion that the fire could have been caused either by a technical fault, by negligence or arson. Because of the great deal of damage done, it was not possible, however, to find any specific indications of a specific cause of the fire. According to the expert witness, Sinan Kadioglu must have been in the garage at the time of the fire. The investigation has not yet been concluded. As yet, it has not revealed any indication of a racist motivation behind any arson attack.

Case No. 1995/5

Allegations

Place: Geesthacht

Date: 28 December 1994

23. A Turkish-owned teashop was destroyed in a firebombing in Geesthacht, Hambourg, on 28 December 1994. The 22 Turkish and German residents of the flats above the shop were evacuated after the fire broke out around midnight and fortunately no one was injured. The damage was to a value of 250 deutsche marks.

24. It is alleged that this incident, which followed many others in which Turks and Turkish-owned businesses in Germany were targeted by neo-Nazis, had racist motivations.

Observations

25. The facts of the case are mostly confirmed.

26. The investigation is being carried out by a special commission of Lübeck district criminal police office which has been established in Geesthacht, in consultation with fire experts from the Regional Criminal Office. According to witnesses' statements, three men who are said to have unmistakably been Turkish nationals started the fire. They are said to have fled in a car parked close by after committing the offence.

27. The investigations carried out to date by the Geesthacht special commission have not revealed any indications that the offence could have been committed by members of the German right-wing extremist scene or that it was xenophobically motivated.

Case No. 1995/6

Identities

Mehmet Ali Karaaslan
Malik Unlû
Mehmet Ozbagdal

Allegations

Place: Fûrth

Date: 14 January 1995

28. It has been reported that German neo-Nazis attacked Mehmet Ali Karaaslan, Malik Unlû and Mehmet Ozbagdal (all of Turkish origin) when they stopped at traffic lights on Geleitzgasse in Fûrth near Nûrnberg on 14 January 1995. Mehmet Ali Karaaslan was severely injured and had to be hospitalized. Malik Unlû and Mehmet Ozbagdal were also wounded in the incident. The neo-Nazis then went to the Fûrth Turnerschaft Sports Club and attacked the Turks inside with bats and knives.

29. It has been alleged that this attack had racist motivations.

Observations

30. On 15 January 1995, shortly after 2 a.m., a dispute broke out between German and Turkish nationals, first of all in Kônigstrasse in Fûrth. According to those concerned, the fight started at traffic lights at a building site in this street. A car had stopped there with two Turkish nationals inside who had just left the Turkish club "Turnerschaft Fûrth" in the nearby Geleitsgasse. At about the same time, the German co-offenders left a birthday party at the "Amadeus" café in Fûrth. The two groups happened to meet at the traffic lights. The dispute, which was initially verbal, later became physical. The investigating authorities considered that the events as a whole probably arose from insults being exchanged by both sides.

31. The dispute subsequently moved in front of the club in the nearby Geleitsgasse. That is where Malik Unlû was knocked to the ground and kicked by individuals whose identity has not been established, whilst he defended himself with an ashtray. The Turkish national Karaaslan, an innocent bystander who was coming out of the club, was also struck and kicked by individuals whose identity has not been established. The use of sticks or knives was not observed.

32. Karaaslan received a fractured skull, Unlû multiple bruises to his skull and cuts to the head, as well as multiple haematomas and painful movement restrictions in the cervical spinal column and the tempero-mandibular joints.

33. In view of the contradictory information provided on the cause and the course of the dispute, the competent public prosecution office intends to discontinue the investigation proceedings on factual and legal grounds.

34. The investigations have revealed no indication of a specifically racist motivation for the incident.

Case No. 1995/7

Identity

Aykut Erol

Allegations

Place: Kiel

Date: 20 February 1995

35. It has been reported that there was an arson attack on the travel agency owned by Aykut Erol (of Turkish origin). The fire was started by two Molotov cocktails thrown into the agency through the window. There was heavy damage, but no injuries.

36. It is alleged that this arson attack had racist motivations.

Observations

37. On 17 February 1994 two simultaneous arson attacks were carried out at 11.21 p.m. on Turkish travel agencies in Elisabethstrasse and Ringstrasse in Kiel. In both cases, the offenders broke the windows and threw Molotov cocktails inside. Neighbours and the police were able to put out the fires quickly, so that there was little material damage. There were no injuries.

38. A witness was able to apprehend a suspect close to the scene of the crime in Ringstrasse and another suspect was temporarily apprehended by police officers on the basis of a description. The two are Turkish nationals, against whom detention orders were issued on 18 February 1994 in respect of attempted arson.

39. According to the investigations, the possibility of a racist or right-wing extremist motivation for the attacks can be excluded.

Case No. 1995/8

Identities

Muhammed Bayrak
Ziya Yildiz
Nihat Isik

Allegations

Place: Mülheim

Date: 28 February 1995

40. It has been reported that plain-clothes German Special Team members of Essen Police Headquarters arrived at the Café Royale on Eppinghofer Strasse in Mülheim Ruhr, which belongs to a Turkish national, in five or six vehicles accompanied by an ambulance. They put on hoods to cover their faces and bullet-proof vests once they got out of the cars. They later went into the café and shouted for everyone to lie on the floor. When one of the clients, Muhammed Bayrak (also of Turkish origin), told the Special Team members that he had a heart problem, they yelled back "We don't care about your heart" and he was forcibly brought to the floor, hit in the mouth with the butt of a gun and kicked. Mr. Bayrak was hospitalized, suffering from broken ribs.

41. Another client of Turkish origin, Ziya Yildiz, was kicked while lying on the floor, handcuffed and hit on the head with a weapon. Nihat Isik, also of Turkish origin, who asked the police for identification, was pushed around, had a plastic bag put on his head to obstruct his breathing and had his throat clasped.

42. The Special Team members left the café. It was later understood that they were looking for three Yugoslav nationals. There were some German nationals who also witnessed the attack.

43. It is alleged that the behaviour of the Special Team members and their attack was prompted by racist motivations.

Observations

44. According to the investigating public prosecution office, the incident took the following course:

> "On 28 February 1995 at about 7.50 p.m. 11 officers of Essen special team (SEK) apprehended 3 individuals in the pool café 'Bistro Royal' in Mülheim an der Ruhr, Eppinghofer Strasse 108 who were under suspicion of having taken part in four armed robberies in Mülheim an der Ruhr and in Neuss, as well as two more in the Netherlands, in the course of which they carried firearms. The public prosecution office in 's-Hertogenbosch in the Netherlands is investigating, inter alia, in respect of attempted murder, since a shot was fired at a victim in the course of an offence committed there.
>
> On the basis of information gathered in the course of telephone surveillance, there were indications that the persons to be apprehended were meeting in order to commit another similar offence. They were therefore presumed to be carrying firearms. This is why the officers of SEK Essen were deployed, whose main function is to apprehend armed criminals who are prepared to use force.

According to the police reports which I have at my disposal, the police officers were wearing helmets, bullet-proof vests and face masks, as well as armbands with the word 'Police' printed on them, and had Land crests on their vests. When the officers entered the 'Bistro Royal', those present, including Mr. Bayrak, Mr. Yildiz and Mr. Isik were addressed several times, loudly and clearly, with the words: 'Police, don't move'.

Mr. Bayrak reportedly rushed towards one of the police officers with outstretched arms, although the former was carrying a firearm in his right hand. He was then pushed to the ground and handcuffed by two other officers. The officers had to use considerable force because of the amount of resistance offered by Mr. Bayrak. The claim made by Mr. Bayrak in the investigation proceedings that a sack had been pulled over his head is incorrect. The SEK did not use any such item. Because another of those present said that Mr. Bayrak suffered from heart disease, he was immediately treated by the emergency doctor who was on the scene. According to the report, Mr. Bayrak was neither struck nor kicked.

The police report further states that Mr. Yildiz attempted to grab a machine gun from an officer who was providing cover. The officer defended himself against this attack. The report states that Mr. Yildiz was handcuffed. In proceeding 40 UJs 22/95, Mr. Yildiz stated that he had interpreted the incident not as a police operation but as an attack by an gang of criminals or a terrorist group, and had thus attempted 'in an instinctive defensive reaction' to push the weapon which was in the hand of the nearest police officer to the side.

According to the information available to me to date, there is no reason whatever to suppose that the police operation in question was 'racially motivated'."

45. Düsseldorf chief public prosecution office also reported that the three persons apprehended in the pool café "Bistro Royal" in Mülheim an der Ruhr were two Yugoslavs and one German national.

Case No. 1995/9

Allegations

Place: Cologne (North-Rhine/Westphalia)

Date: 13 April 1994

46. It has been reported that on 8 April 1994 a newborn baby was found abandoned in a park in Cologne and taken to hospital where he was examined and declared to be in sound health.

47. On 13 April 1994, at 6 a.m., more than 100 policemen are said to have been dispatched to surround a camp for asylum-seekers belonging to the Roma and Sinti minorities. There they are said to have conducted a search because, they said, they were tipped off by a witness who saw a woman with a baby carriage who looked "like a Gypsy".

48. The police are said to have rounded up all women from the ages of 15 to 40 taking them to the police station, having them finger-printed and photographed, and forcing them to undergo blood tests. Three of them, one of whom was a young girl of only 15, are said to have been subjected to forced gynaecological tests.

49. The police issued the following statement: "The hospital informed us that the baby who was found had the kind of skin pigmentation that is found in the Romas and the Sintis ... it was necessary to have such a massive police presence because it is characteristic of this ethnic minority that they run away from the police".

50. It is alleged that this incident had racist motivations.

Observations

51. This incident took place as follows. On the morning of 8 April 1994 a woman going for a walk in a park in Cologne-Poll found a male baby that was just a few hours old. As it later transpired, the child had suffered a fractured skull - presumably as a result of force being applied, was naked, and was still attached to part of the placenta. Thanks to immediate medical reanimation measures the baby's circulation and breathing were stabilized, and the baby's life could be saved. At the time the baby's body temperature had been a mere 19°C.

52. Since the investigating authorities - specifically because of statements made by a witness - thought that the child's mother was in the hostel for asylum-seekers in Poller Holzweg, where the vast majority of residents were refugees from the former Yugoslavia, the public prosecuting authorities in Cologne applied to Cologne Local Court for an order enabling them to take blood samples from 39 women living in the accommodation at Poller Holzweg and also to search the premises of the asylum-seekers' hostel. The names of the women affected, including women belonging to the Roma ethnic group, were taken from the list of the hostel occupants - with account being taken of their age.

53. The Court orders applied for were made by an investigating judge at Cologne Local Court on 12 April 1995. The order for blood samples to be taken was based on the provision in section 81c (2) of the Criminal Procedure Code. This provision states that the taking of blood samples from persons other than the accused is admissible without the consent of the person to be examined provided there is no fear of detriment to his or her health and the measure is indispensable for determining the truth.

54. On the morning of 13 April 1995, at 7 a.m., 18 criminal investigation officers, 60 members of the police force, 4 members of the staff at Cologne-Porz District Office and 4 interpreters arrived at the accommodation provided at Poller Holzweg. After the hostel buildings had been closed off by uniformed officers the premises were searched individually.

55. In a document specially prepared in writing and handed out, the interpreters told the women affected, in their mother tongue, about the facts of the case and about the purpose of this operation. The interpreters were required to ask the women whether they had understood what had been translated

and whether they consented to having a blood sample taken. In some cases because the hostel residents understood German the officials involved were also able to communicate with them directly.

56. Fifteen women in respect of whom the judge had ordered a blood sample to be taken were not there. The measures ordered have not been carried out in their case yet.

57. A total of 40 women at the hostel were taken by police bus to police headquarters in Cologne, where blood samples were taken from them by medical practitioners in the presence of two interpreters.

58. On the basis of a further urgent order made by the public prosecution office pursuant to section 81a (2) of the Criminal Procedure Code another three women, from whom a blood sample was to be taken by judicial order, were brought to the gynaecological department of the women's section of the Cologne University Clinic for a medical examination. This was done because a witness had stated that the women concerned resembled a person he had seen near the place where the baby was found.

59. The measures described above did not lead to the child's mother being identified. Investigations are continuing.

60. The complaint filed by one of the women concerned against the taking of a blood sample, ordered by Cologne Local Court, was rejected as unfounded by Cologne Regional Court in a ruling given on 24 July 1995.

61. Criminal charges were laid against the investigating public prosecutor, the investigating judge with jurisdiction in the case and the policemen who had been in command for, inter alia, infliction of bodily harm, coercion and unlawful deprivation of liberty. The public prosecutor's office at Cologne Higher Regional Court instructed the Bonn public prosecution office to carry out the subsequent investigations, which were terminated by the latter on 14 September 1995 because there was insufficient evidence that a criminal offence had been committed.

62. The chief public prosecutor in Cologne reviewed the matter, in the exercise of his powers of specialist supervision, focusing on the question whether - specifically in the light of the police detachment sent in - sufficient account was taken of the women's interests that warranted protection, and particularly whether everything had been done to avoid a possible exposure of the women that was not necessitated by the purpose of the investigation. The chief public prosecutor also considered the question whether the operation should have been conducted with greater sensitivity and empathy. He had the following to say on this:

> "I do not fail to recognize that the planned operation - already in the light of the large number of persons involved irrespective of their nationality or membership of particular ethnic groups - could only be carried out with the deployment of a large police detachment. Even if this operation was supposed, according to the Bonn public prosecution office's statements in the note terminating the investigation, to have taken place in a 'quiet', 'friendly' and 'relaxed atmosphere that was not

aggressive', the film material broadcast by the West German Broadcasting Corporation (the 'Westdeutscher Rundfunk') - particularly the 'surrounding' of the four hostel buildings by officers in uniform - did to some extent give the impression of almost 'militant' action being taken. Given the gravity of the offence, this was still compatible with the principle of proportionality. It could, however, have been organized more carefully and with greater sensitivity so as not to allow the impression of - unintended - intimidation to emerge at all. Also, there can otherwise be no question of this operation being of a discriminatory character."

63. The chief public prosecutor further remarked:

"I regret that the public have partly been given the - incorrect - impression that the type and the scale of these measures were determined by 'peculiarities' of the group of Sinti and Roma. Evaluations of this kind could have been avoided, particularly in press reports, in the light of the special degree of circumspection and restraint needed here. In this respect, I have requested the head senior public prosecutor to take all necessary steps."

64. This remark referred to a statement made by the investigating public prosecutor to the press immediately after the operation. The public prosecutor had said, inter alia: "We are investigating a crime: This has nothing to do with racism at all. We would have done this to anybody else as well. And the large number of policemen involved here simply results from the peculiarities of this ethnic minority, since otherwise they would all just run away".

65. The Ministry of Justice of the Land of North-Rhine/Westphalia expressly shared the chief public prosecutor's assessment vis-à-vis the North-Rhine/Westphalian Land Parliament. It was said that although the action taken by the criminal prosecuting authorities was still in proportion, it could have been organized with greater circumspection. The statement to the press was said to display a lack of the sensitivity needed.

Case No. 1995/10

Allegations

Place: Worms (Rhineland-Palatinabe)

Date: 6 December 1994

66. It has been reported that an arson attack was organized on the Turkish Islamic Cultural Association in Worms on 6 December 1994. The three-storey building was reportedly owned and also inhabited by three Turkish families.

67. Heavy damage is said to have occurred but nobody is said to have been injured. A fuel container is said to have been found in the burnt-out building after the fire.

68. It is alleged that this incident had racist motivations.

Observations

69. On 7 December 1994 an arson attack was carried out on the premises of the Turkish Islamic Cultural Association in Worms. Damage amounting to roughly DM 5,000 was caused. On 21 March 1995 the public prosecution office in Mainz preferred an indictment before Worms Local Court - sitting with two lay judges - against two Turkish nationals for this arson attack. According to the assessment made by the public prosecution office, there have so far been no indications of a political or racist motivation for this crime.

70. Judgement has not been delivered in this case yet.

Case No. 1995/11

Identities

Yusuf Karbuz	R. Aslan
Riduan Tunç	Yasar Dõner
Mahmut Türkücü	Mahmut Tabul
Nuri Demir	Hüseyin Altigan
Remzi Braul	

Allegations

Place: Hanover (Lower Saxony)

Date: 17 March 1995

71. It has been reported that nine Turkish prisoners whose names are mentioned above went on hunger strike in Hanover Prison on the ground that they were subjected to heavy imprisonment because of their foreign status. It was also claimed by the prisoners that Turkish criminals receive longer terms of imprisonment than their German counterparts who had committed the same crime and that, in such situations, Turks were convicted while Germans were released.

Observations

72. The Turkish Embassy has approached the Federal Government on the same matter. In its note verbale dated 20 June 1995, the Federal Foreign Office made the following statement:

73. "Twenty-seven Turkish inmates were on hunger strike between 15 and 22 March 1995 in Hanover prison in order to protest against the rulings of the German courts, which they regarded as being unfair, particularly with regard to the extent of the sentences imposed. At no time was the health of the inmates in danger.

74. The Legal and Constitutional Committee and the Sub-Committee 'Prison and Support of Convicts' of the Regional Parliament of Lower Saxony dealt with this incident in detail. In doing so, they ascertained that there had been no human rights violations and that the allegations were unfounded. In particular, subsequent to discussions with the foreign inmates, the conviction

was formed that the generalized accusations levelled against Lower Saxony judges, public prosecutors and lawyers contained in the 'Press statement to the public' enclosed with the note verbale of the Turkish embassy are untenable.

75. The constitutional principle of the independence of the judiciary has been explained several times to the inmates concerned by the governor of Hanover Prison and the chairman of the Sub-Committee 'Prison and Support of Convicts' of the Legal and Constitutional Committee of the Regional Parliament of Lower Saxony. Regardless of this, on inspection of the warrants of arrest and the sentences on which the detention of the inmates on hunger strike was based, the chairman of the Sub-Committee stated that he had found no indications of prejudice, poor investigation or disadvantages suffered by non-German convicted persons with regard to the extent of their sentences. In the same vein, there were no indications either of confessions having been forced or of their not having led to milder sentences in accordance with the principles for sentencing contained in the Criminal Code (sect. 46). Furthermore, those concerned, almost all of whom have counsel, were and are able to appeal the sentences imposed on them, and thus to have their convictions changed.

76. In so far as the inmates complain in general terms of 'errors and unfairness' by the public prosecution office, it is pointed out that under law, public prosecutors are independent representatives of the administration of justice. There is no knowledge of unprofessional breaches of duty with regard to individual inmates on hunger strike.

77. An exchange of correspondence has not taken place with regard to this matter between the Turkish Consulate General in Hanover and the Ministry of Justice of Lower Saxony. On 30 March 1995, Consul-General Mehmet Emre expressed his thanks for the detailed information provided.

78. The inmates have been informed that, because the matter is being dealt with in Parliament by the organs of the Regional Parliament of Lower Saxony which have a mandate in this matter, there is no reason for an additional interview with the Minister of Justice, Ms. Alm-Merk. In so far as the inmates have named others with whom they wish to speak, they are free to invite these individuals themselves."

Case No. 1995/12

Identity

Züleyha Oztürk (Ms.)

Allegations

Place: Hamburg

Date: 6 April 1995

79. It has been reported that Ms. Oztürk, a Turkish national, was the victim of brutal treatment by two police officers, who forcibly entered the flat

where she was looking after a friend's child (at 46 Eichstrasse) on 6 April 1995. Without giving reasons for their entry into the flat, these police officers are said to have demanded to see her identity papers, and one of them is said to have molested her before taking her - again without giving any reasons - to the Davidwache police station against her will. There she is said to have been photographed. A doctor's certificate that was issued on the day the incident took place attests to the young girl suffering a severe headache and having scratches and numerous bruises - for which she holds responsible the policeman who is said to have almost throttled and then kicked her.

80. It is alleged that the police officer's conduct had racist motivations.

Observations

81. In the light of the criminal investigations conducted in respect of the police officers involved, the facts are as follows. On 6 April 1995 Ms. Oztürk was in her friend's flat in Eichstrasse in the Hamburg suburb of St. Pauli to look after the two-year-old child of her friend, who was away. During the afternoon, neighbours laid a charge at the Davidwache police station of noise creating a nuisance because of loud music coming from the flat where Ms. Oztürk was. Police officer H. went to the flat together with a colleague and they told Ms. Oztürk the reason for their appearance. The personal particulars needed for making a record of a regulatory offence could not be taken from Ms. Oztürk because she did not have any identity papers with her and initially refused to give her personal particulars. During the course of the conversation she gave them the personal particulars of the absent occupant of the flat. In the opinion of the investigating authorities, linguistic misunderstandings did not play any role because Ms. Oztürk has been living in the Federal Republic of Germany for 18 years and is fluent in German. Ms. Oztürk also did not comply with the request to accompany the police officers with the child to the nearby Davidwache station to have her personal particulars checked there. When police officer H. then took her by the arm to lead her out of the flat she began to slap out and kick with her hands and feet. To avoid difficulties and to calm Ms. Oztürk down, police officer H., using his right arm, gripped the upper part of her body from behind. Further measures could not be applied because the police officers saw no chance in that situation of taking Ms. Oztürk and the child to Davidwache peacefully without calling in reinforcements. At the same time as the two police officers arrived who had been called by radio the occupant of the flat and Ms. Oztürk's boyfriend arrived. Ms. Oztürk then accompanied the police voluntarily to Davidwache station where her personal particulars were checked very quickly.

82. In view of Ms. Oztürk's statement that she had been throttled by police officer H., she was given an immediate hearing by a member of the staff of the special department of the Hamburg police force dealing with offences committed by members of the force. With Ms. Oztürk's consent four Polaroid photographs were taken to document the alleged injuries to her throat, which were confirmed by the doctor's certificate submitted later. The certificate also indicated that the muscles of her back were painful when pressure was applied. It is also apparent from this certificate that Ms. Oztürk said to the doctor

that she had been kicked and held round the throat by a policeman. During police questioning Ms. Oztürk never claimed that she had been kicked.

83. On 11 July 1995 the Hamburg public prosecution office terminated the investigation in respect of police officer H. on the ground of insufficient suspicion that an offence had been committed. The public prosecution office explained its reasons for terminating the criminal proceedings in a detailed letter, in which it was also pointed out that Ms. Oztürk had refused to undergo a medical examination on 6 April 1995 and only went to the doctor on 11 April 1995. It was stated that the doctor confirmed that she had not found anything serious. The police measure carried out by the accused police officer was also said not to have been objectionable from the point of view of the principle of proportionality. Ms. Oztürk did not file a complaint against this notice of termination.

Case No. 1995/13

Allegations

Place: Göttingen (Lower Saxony)

Date: 13 May 1995

84. It has been reported that a Jewish cemetery in Göttingen was damaged by neo-Nazis; 11 tombstones are said to have been broken on 13 May 1995. The damage is estimated to be around DM 55,000.

85. It is alleged that this desecration had a racist motivation.

Observations

86. On 8 May 1995 unidentified offenders destroyed 11 tombstones of deceased Jews in the Jewish burial-ground in Göttingen municipal cemetery by knocking over tombstones, which then broke. There are indications that this desecration was perpetrated by persons from right-wing extremist circles but there are no indications of the identity of particular individuals. Publication in the media also did not lead to any specific tip-offs. Consequently, the investigation had to be terminated. In its termination order, the Göttingen public prosecution office stated that there were indications that the desecration had been perpetrated by persons from right-wing extremist circles, but that it had not been possible to procure more information regarding particular individuals.

Case No. 1995/14

Identities

Fatma Çirmak (Ms.)
Murat Çirmak (Mr.)

Allegations

Place: Esslingen (Baden-Württemberg)

Date: 16 May 1995

87. It has been reported that there was an arson attack on a building on Rathausplatz No. 11 in Esslingen, entirely occupied by foreigners (Bosnians and Turks) after midnight. The two Turks who lived on the third floor of the building are said to have escaped uninjured. The damage is estimated to be around DM 10,000.

88. The Esslingen police acknowledge that the incident was an arson attack, and they stated that it could be linked to two previous arson attacks in Esslingen (9 April 1995 on Fabrikstrasse and 2 May 1995 on Plochingerstrasse). Those fires had resulted in damage of approximately DM 2.5 million.

89. It is alleged that these attacks were linked to right-wing extremist groups and had racist motivations.

Observations

90. This incident is one of a series of arson attacks in Esslingen. On 9 April 1995 the building at Fabrikstrasse No. 18 in Esslingen, mainly occupied by Turkish and Greek nationals, was largely destroyed in an arson attack. Damage was caused amounting to DM 750,000. The fire brigade were able to rescue the uninjured occupants. The arson attack on 2 May 1995 on the building at Plochingerstrasse No. 120 in Esslingen, occupied partly by repatriates from Poland as well as by people from the former yugoslavia, also led to damage at the level indicated. The occupants were not injured. The building at Rathausplatz No. 11, which was the target of another arson attack in Esslingen on 16 May 1995, was occupied solely by Turkish and Greek nationals. Damage of DM 10,000 was caused, but nobody was injured.

91. Following extensive investigations - rewards were offered amounting to a total of DM 30,000 - a suspect was arrested on 30 June 1995 who has been in remand custody ever since. The 25-year-old accused has stated that in the three incidents referred to he was deliberately trying to set fire to the house where Turks were living. He said that he did this because Turks had beaten him up in July 1994 and, in his opinion, had been punished too leniently by the court.

92. In addition, the accused is strongly suspected of committing arson or damage to property in conjunction with arson in at least another 14 cases. According to the results of the investigations conducted, xenophobic motivations can be ruled out in these cases with a degree of probability bordering on certainty. In the light of what is currently known it can also be ruled out that the accused was a member of a right-wing extremist group or maintained contacts with such a group.

93. The public prosecution office's investigations are not over yet.

Case No. 1995/15

Allegations

Place: Darmstadt (Hesse)

Date: 18 May 1995

94. It has been reported that on 18 May 1995 the Darmstadt Special Police Unit, carrying guns and wearing masks, entered the Turkish Islamic Centre on Bleichstrasse (Darmstadt) around 5 p.m. where Turkish people had gathered for prayer. It is stated that the police shouted for everyone to lie on the floor while they conducted a search in the Centre for half an hour, causing serious damage there. They are then said to have taken everyone in the Centre to a nearby police station.

95. The Turks are said to have been interrogated for seven hours and subjected to degrading treatment. They are said to have been released without any explanation.

96. The head of the Darmstadt Police stated that the Special Unit members were conducting an operation against drug dealers and that an inquiry would be commenced into the incident.

Observations

97. From the point of view of the public prosecution office responsible for the investigation, the facts are as follows:

98. After the criminal investigation department of the Darmstadt Police concluded from its investigations that a drug scene had begun to be established in 1994 and that it began to spread at the beginning of 1995, a special working party was set up in the drugs section at Darmstadt Police Headquarters. Following comprehensive preparatory work, arrests of drug sellers and drug seizures, an order was given for a raid to be conducted on 18 May 1995. Seventy-one people were provisionally arrested in four Turkish restaurants and in an adjacent mosque; afterwards an order was made for 18 people to be taken into remand custody. The restaurants were closed by order of representatives of Darmstadt Regulatory Office. All in all, 1,700 g heroin, 1,000 g cocaine, 1,700 g of so-called "adulterated drugs", 4 firearms and 200 rounds of live ammunition, and several thousand deutsche marks in cash were found and seized. To increase their sales, the principal accused had even used children flown in specially from Turkey to perform negotiating functions and to take part in the selling of drugs.

99. As far as the search of the mosque was concerned, the police officers involved were given instructions to take care that the religious interests of persons visiting the mosque were not violated. The mosque had to be included in the search, which was ordered by a judge, because it could not be ruled out that these premises had also been used as a cover in the drug trafficking.

100. Neither the persons arrested nor those screened were treated in a degrading manner during this raid. All the people arrested were questioned

and given the reason for their arrest. Similarly, they were given the reasons for their release if they were not taken before the judge investigating the case.

101. It follows from these facts that the raid had no "racist" background. The fact that virtually all the people arrested were Turkish nationals (particularly ethnic Kurds), was due to the composition of the drug organization operating on these streets.

General commentary by the Special Rapporteur

102. The Special Rapporteur welcomes the reaction by the Government to the allegations he submitted to it for its observations during 1995; it reflects the constructive spirit of dialogue that characterized his visit to Germany.

103. The Special Rapporteur respects the law and is convinced of the determination of the German people to combat racism and racial discrimination and to bring them under control; accordingly, he places his trust in the courts of Germany, which is a democratic State governed by the rule of law, and which respects the dignity of the human person. He would like to repeat his suggestion to the Government of Germany that the victims of racist, anti-Semitic and xenophobic attacks be given fair and equitable compensation, and that, in view of the serious trend of xenophobia, the Government consider compensatory measures for the victims of violence, as is authorized in certain European countries by the law on public security and compensation for victims, which could help to solve the human problems posed by cases 4 to 8.

Annex II

REPORT ON ANTI-SEMITISM

Submitted by the Coordinating Board of Jewish Organizations, a non-governmental organization in consultative status with the United Nations Economic and Social Council

1. Anti-Semitism is an irrational hatred of the Jewish people. It starts with hostility, grows to prejudice, and from there to agitation, discrimination, and violence against Jews and Jewish institutions. Historically, it has resulted from an effort to demonize the Jewish people because Jews adhere to a religion or culture different in every land except Israel from that of the majority population. Simply put, the anti-Semite starts with the thesis that the Jews are different, and concludes that they are bad and even dangerous.

2. Anti-Semitism is usually motivated by politics, although at times economics has also played a role. Historically, anti-Semitism has been used to instal or help keep a regime in power or, alternatively, to help bring down a regime when a direct attack would be too dangerous. Anti-Semitism has also been inspired by religious leaders who were angered when Jews refused to accept their religious teachings. Under the Catholic Church from Roman to medieval times, Jews were forbidden to own land or join trade guilds because they did not accept the Christian religion. Thus, in Europe for some 1,500 years they were not able to enter vocations by which persons normally earned a livelihood and Christians were taught for centuries that Jews should suffer for having refused conversion to Christianity. The Crusaders on their way to and from the land of Israel were responsible for murdering thousands of Jews, and the Catholic Inquisition was responsible for torturing thousands of Jews to death. (In both cases the victims were frequently robbed, and it was not unknown in the Middle Ages for Christians to murder Jews or to instigate pogroms against them in order to avoid repaying debts.) Mohammed and Luther also inspired anti-Semitism when Jews refused to accept their teachings.

3. After the Enlightenment, anti-Semitic propagandists developed a secular version of anti-Semitism based upon the myth propagated by the Tsarist secret police forgery known as The Protocols of the Elders of Zion. The principal themes of this hate primer are that Jewish people aspire to dominate the world, and that they will achieve world domination through a conspiracy, which entails control of the world's banks and media, as well as infiltration of the Freemasons.

4. For a century The Protocols have remained the most enduring anti-Semitic propaganda, adopted both by Hitler and Stalin. Versions of this myth are currently distributed in such distant places as Europe, the Middle East, Latin America and Japan, although Jews in most of these areas constitute much less than 1 per cent of the population and in Japan these myths first infiltrated the country from Japan's enemy Russian during the Russo-Japanese War. They have reportedly been financed more recently from the Middle East.

5. The Jews were a vulnerable target for thousands of years because they had been exiled from their homeland and dispersed over much of the world, with no

State to protect them, and because they manifested pacifist tendencies, which led them for centuries to resist defending themselves. Although Jews were everywhere an uprooted and unprotected minority, conspiracy theories based on The Protocols claimed, particularly in Europe and the Middle East, that they were a harmful force in the life of the countries in which they resided and that they aspired to economic domination. No amount of factual data disproving these ideas sufficed to convince those who claimed to believe them. Contemporary conspiracy theories found in far right circles assert that Jews are trying to dominate the world by strengthening the United Nations.

6. The term anti-Semitism was reportedly coined in 1879 by the German agitator Wilhelm Marr to refer to contemporary anti-Jewish campaigns in Europe. Some historians distinguish between groups that temporarily adopted anti-Semitic attitudes and those founded with the express purpose of fighting "Jewish influence". But it is clear that for centuries the leaders of Western, Central and Eastern Europe used anti-Semitism for political purposes. In recent decades anti-Semitism has targeted Jews for their support of democracy and pluralism.

7. The storm of anti-Semitic violence, culminating in genocide, let loose by the rise to power of the Nazis in Germany was unequalled in modern history. But a variety of developments over the last hundred years indicates that anti-Semitism has played and continues to play a role in the politics of modern Europe as a whole. These include the Dreyfus affair in France and, far worse, the pogroms in Tsarist Russia, followed by the virulent anti-Semitism of both the White Army and Stalin (though Lenin expressed contempt for Tsarist inspired anti-Semitism). Troubling more recently are post-Cold War manifestations of anti-Semitism in Central and Eastern Europe, even though the Jewish communities in those countries have virtually disappeared. Equally disturbing, European colonial officials, travellers, and sometimes missionaries brought their prejudices with them to Latin America, Africa and Asia. Fortunately, the current Pope John-Paul II has recognized the dangers of this trend and taken steps to reverse it, and noted Church authorities have withdrawn their endorsement of a Catholic version of the Bible which contains anti-Semitic commentaries. At the same time, the Evangelical Lutheran Church of North America has forthrightly repudiated the anti-Semitic pronouncements and writings of Martin Luther.

8. Nevertheless, the last few years have seen a rise in reported expressions of anti-Semitism, including Nazi type swastika daubings, but also hate propaganda on radio and television and the new and sophisticated phenomenon of cyberspace messages of hate. Even more frightening, acts of violence against Jews and Jewish property have also been on the rise, including physical assaults, arson, and terrorist bombings resulting in many deaths in many parts of the world, great psychological distress and economic hardship. The bombings and shootings in North America, South America, and Europe appear to be the work of both neo-Nazi elements and Islamic extremists.

9. Recognition of the need to combat anti-Semitism has come from the Conference (later Organization) on Security and Cooperation in Europe and the Council of Europe. In 1993 the former added anti-Semitism to the mandate of the CSCE High Commissioner on National Minorities and the latter, at its Vienna meeting, identified anti-Semitism as a social evil and adopted a plan

of action to combat racism, xenophobia, and anti-Semitism. It also established the European Commission against Racism and Intolerance. A European Parliament resolution of 23 April 1993 was the first to recognize Holocaust denial as an integral part of racist agitation.

10. In March 1993 the United Nations Commission on Human Rights condemned anti-Semitism for the first time in three decades, but this was not followed up by the World Conference on Human Rights, despite a recommendation to that effect by the Vienna NGO Forum. The United Nations did, however, create two new posts which were potentially of particular significance. The first was the High Commissioner for Human Rights and the second was the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, who was specifically charged in 1994 with monitoring manifestations of anti-Semitism.

11. During the summer of 1994 we submitted to the Special Rapporteur two volumes of research on contemporary forms of anti-Semitism, and in the fall of 1994 welcomed the opportunity of discussing the issue with the Special Rapporteur at great length. We thus looked forward to the appearance of the Special Rapporteur's first report.

12. While we were encouraged by parts of the report, we were deeply distressed to find that certain sections contributed to the phenomenon it was written to combat: Paragraph 22 endorsed the view that anti-Semitism is "compounded by the economic power of the Jews". Paragraph 37 alleged that anti-Semitism is caused because "certain adherents of Judaism continue to treat Christ as an imposter". Paragraph 62 noted that the number of cases of anti-Semitic attacks in Germany had risen in the previous two years from 40 to 63, but concluded by minimalizing this number with the gratuitous comment: "Acts directly against Jews have ... increased to a lesser degree than those directed against foreigners in general". Furthermore, the use of the term "in general" conveyed the impression that Jewish citizens of Germany are to be regarded as foreigners. In paragraph 24 the report also lauded the UNESCO Conference on Cultural Policies, held in Mexico City in 1982, for its support of the equal dignity of all cultures and the affirmation of the value of cultural diversity. As participants in that conference, we found that in contrast to earlier UNESCO conferences and exhibits, it excluded any mention of Jewish culture and history.

13. It is our profound hope that these problematic references will be eliminated and that the United Nations will no longer be perceived to be promoting hateful anti-Semitic stereotypes. In that regard we respectfully urge the Special Rapporteur to recommend that the Commission on Human Rights, in keeping with the Copenhagen document of the CSCE, propose to the General Assembly that it forcefully condemn anti-Semitism and call upon all Member States to do the following: to condemn anti-Semitism in all its forms, to enact and implement legislation outlawing racial discrimination and racial incitement to violence, and to sponsor or conduct anti-bigotry programmes at all educational levels.

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IMPLEMENTATION OF THE PROGRAMME OF ACTION FOR THE THIRD DECADE TO COMBAT RACISM AND RACIAL DISCRIMINATION

Contribution by the International Labour Organization*

* Reproduced as received in the language of submission only.

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Contribution by the ILO to the Decade Against Racism

Combatting Racism and Protection of Minorities by ILO Action

The ILO has been dedicated since its origins to the promotion of social justice. The Declaration of Philadelphia, incorporated in the ILO Constitution in 1944, contains the memorable language that:

> *Believing that experience has fully demonstrated the truth of the statement in the Constitution of the International Labour Organization that lasting peace can be established only of it is based on social justice, the Conference affirms that-*
>
> *(a) all human beings, irrespective of race, creed or sex, have the right to pursue both their material well-being and their spiritual development in conditions of freedom and dignity, of economic security and equal opportunity;*
>
> *(b) the attainment of the conditions in which this shall be possible must constitute the central aim of national and international policy.*

The ILO has two principal means of action that are brought into play in the fight against racism and racial discrimination.

I. International Labour Standards

A. Prevention of Discrimination

The ILO's action in this area has been through the adoption of international Conventions, and the supervision of their implementation by a highly-developed machinery which aims both at pointing out problems and at contributing to their solution. There are now 176 Conventions, which have received well over 6,300 ratifications by ILO Members. The ILO's technical assistance is closely linked to the aims contained in these instruments, and often is initiated in order to resolve problems arising in connection with implementation of Conventions, either before or after their ratification.

The ILO's principal Convention in this area is the **Discrimination (Employment and Occupation) Convention, 1958 (No. 111),** which by the end of January 1996 had been ratified by 120 States. Convention No. 111 requires all ratifying States to "declare and pursue a national policy designed to promote, by methods appropriate to national conditions and practice, equality of opportunity and treatment in respect of employment and occupation, with a view to eliminating any discrimination in respect thereof." It defines "discrimination" as "any distinction, exclusion or preference made on the basis of race, colour, sex, religion, political opinion, national extraction or social origin, which has the effect of nullifying or impairing equality of opportunity and treatment in employment or occupation."

This instrument is, like most ILO Conventions, devoted to workers' rights in relation to employment and work. In spite of what might be thought to be a limited sphere of application, this focus makes it possible to have a significant impact on the situation of racial minorities more generally. Access to employment and to training, and the right to be treated equally and fairly at work, are the practical side of the right tobe free from discrimination. If a minority can enjoy equality at the workplace, then it has moved much closer to true equality in a society as a whole. Indeed, one of the most potent indicators of inequality is the relative rates of employment, of pay, of education and training, which a minority group has attained compared to the dominant groups in the country.

This is particularly important in the light of the statement in the ILO Constitution - whose import has been proven repeatedly - that "there can be no lasting peace without social justice." Unequal treatment and a sentiment of exclusion foment social unrest, and if they can be eliminated or at least reduced, this increases the chances of balanced development.

What has been the effect of Convention No. 111's implementation? While this is difficult to answer any precision, recent examples can be given of how its use contributes to the protection of minority rights. In 1991, an ILO Commission of Inquiry was appointed to examine the Convention's application in *Romania* after the receipt of complaints of its violation as concerned Roma (gypsies) and Magyars (Romainians of Hungarian descent). The Commission made detailed findings concerning the systematic policy of discrimination on the basis of national extraction and race, and made recommendations on the measures that needed to be taken, including recommendations on the need for respect of minority tongues in balance with the national language. Since then, legislation on the rights of minorities has been adopted, a Council for National Minorities has been established, and redress has been made to a number of people against whom there had earlier been discrimination. The situation has remained difficult and the ILO continues to follow it, but definite improvements have been made in line with the Commission's recommendations and Convention No. 111.

In *South Africa*, following complaints on violations of the right of association of the country's Black majority (which for the purposes of the present paper is treated as a disadvantaged group assimilated to a minority), a Fact-Finding and Conciliation Commission on Freedom of Association was established. South Africa was not then a Member of the ILO, but it agreed to the inquiry and cooperated in it. Although the findings concentrated on freedom of association, dealt with under other ILO standards, the inquiry was based also on the fundamental rights to non-discrimination contained in the ILO Constitution and Convention No. 111. The pre-election Government followed up on numerous recommendations made by the FFCC. Once the Mandela Government came into power, South Africa rejoined the ILO and has continued to make use of the ILO's technical assistance to review the remaining legislative discrepancies and draft new labour legislation. While these efforts are now in the past, the Minister of Labour has indicated that Convention No. 111 will be ratified by the country in the coming months, indicating the importance attached by this country to the ratification andimplementation of the Convention.

At its November-December 1995 session, the ILO Committee of Experts on the Application of Conventions and Recommendations carried out a Special Survey on Equality of Opportunity and Treatment (Report III (4(B), International Labour Conference, 83rd Session, 1996). It noted in this survey that race is one of the grounds most frequently referred to in

national texts prohibiting discrimination, and noted several recent instances in which it had been added to national legislation on this subject. There were others in which institutions had recently been set up for combat racism and racial discrimination in employment, either at the government level or by the social partners. The Committee noted also that there is cuurrently a legislative trend to make discriminatory practices based on race a punishable offense.

It is interesting to note in this regard that when the Committee of Experts examined the reports of all ratifying countries under this Convnetion at its November-December 1996 session, the majority of the many comments addressed to States related to discrimination on grounds other than race and colour. While this should not necessarily be taken to mean that racism or racial discrimination are lessening, this and other indications spelled out above may indicate that in most countries thelegislative framework at least is in place to combat and eliminate this form of discrimination.

B. **Indigenous and Tribal Peoples**

As a complement to its work to combat discrimination, the ILO has also adopted the only international Conventions on the rights of indigenous and tribal peoples, which falls within the ambit of its work against racism. The Indigenous and Tribal Populations Convention, 1957 (No. 107) was a ground-breaking instrument, prepared with the cooperation of the entire UN system. It has been revised and updated by the Indigenous and Tribal Peoples Convention, 1989 (No. 169), also adopted with the help of the rest of the UN system and that of other organizations, as well as the participation of a large number of indigenous representatives. The new instrument removes the too-integrationist tone of the 1957 Convention, and requires ratifying States to cooperate and consult with indigenous and tribal peoples within their borders in an atmosphere of mutual respect.

Although Convention No. 169 so far has only 9 ratifications - a good rate of ratification for such a complex instrument - it has been having an impact far beyond ratifying States. The Convention, the debates it has stimulated, and the ILO's technical assistance have sparked improvements in a number of countries, and have stimulated a profound examination in others of the relations between States and their indigenous and tribal peoples.

Among ratifying States, several countries (including *Bolivia, Colombia* and *Mexico*) have for the first time recognized the special place of indigenous peoples among the national population, since ratifying the Convention. Others have adopted new legislation extending recognition of their rights, or have granted land rights not previously accorded. In *Norway*, the Government has asked the Sami Parliament to participate directly in the ILO supervisory process for Convention No. 169, an example of how recognition of local self-government by indigenous peoples can help these peoples to establish a working relationship with a State while also retaining their local autonomy.

The influence in States which have not yet ratified the Convention has been equally great, as in several cases it has led them to consider for the first time the measures which they should take to protect and preserve indigenous and tribal peoples inside their countries. See below, under Technical cooperation.

II. ILO Technical Cooperation

As indicated above, a fundamental concern of the ILO is that its standards be supported by the practical assistance the Organization can offer. In addition, the technical cooperation the ILO does carry out may not contradict the standards adopted by the Organization, and is most often used precisely for the purpose of improving implementation of ratified Conventions, or helping to create conditions under which they may be ratified.

Technical cooperation projects now being carried out in areas covered by these Conventions, in the area of protection of minorities, include the following.

In *Namibia*, thanks to Australian financing, the ILO is now working with the Government to institute an affirmative action policy in line with Convention No. 111. This two-year project is intended to overcome the lingering effects of apartheid by lowering barriers to equality of Blacks, disabled persons and women, and to promote their full incorporation into the national economy. The first phase has been completed (end of 1995), and work on the drafting of a Bill on affirmative action including national machinery, and training of national officials will begin shortly.

In *Brazil*, comments by the Committee of Experts under Convention No. 111, followed by discussions in the International Labour Conference in 1995, have led the Government to request the Office's technical assistance to put into place a workable policy on discrimination in the workplace. Although discussions began with relation to discrimination on the basis of sex, the solutions envisaged cover other grounds, including race and national origin. During 1996 the first phase of assistance will conclude with a national tripartite seminar to examine mechanisms for prevention of discrimination, and protection of disadvantaged groups of workers. This may be followed by assistance in the actual design and implementation of the policy, on the basis of Convention No. 111.

In Eastern Europe, the ILO is working on a manual intended to provide guidance to governments, and to workers' and employers' organizations, on the incorporation of equality considerations into personnel policy This is of particular importance in this multilingual and multicultural region.

ILO technical asistance for indigenous and tribal peoples is linked to possible ratification and implementation of Convention No. 169, and is not limited to countries which have ratified it. For instance, in *Guatemala* the Government's promise to ratify and apply Convention No. 169 is a fundamental point in the peace agreement between the Government and the Indian rebel forces. The ILO has been assisting in the negotiation of different aspects of the peace agreement, and is ready to provide assistance in its implementation.

In the *Philippines*, development projects and policy advice by the ILO which are intended to lead to the eventual ratification of Convention No. 169, have already led the two rival indigenous movements to meet together for the first time, and to undertake talks with the Government. Technical cooperation for the deevlopment of production cooperatives for the indigenous peoples, are linked to discussions of the eventual ratification of the Convention.

In the *Russian Federation*, the ILO was invited to testify to the State Duma in 1994 on the possible ratification of Convention No. 169. In relation to preparations for ratification, the Government has asked for ILO assistance to gather and coordinate international aid for the indigenous peoples of the north of the country.